



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

March 20, 2003

Mr. Brett Bray
Division Director
Texas Department of Transportation
P.O. Box 2293
Austin, Texas 78768

OR2003-1924

Dear Mr. Bray:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 178139.

The Texas Department of Transportation (the "department") received a request for a copy of a specified automobile dealer's application and license for a specific time period. You state that you do not want to withhold any information from another government entity. Thus, you ask whether the department may transfer the requested information to the requestor, an agency of the federal government, as an inter-governmental transfer.

In this instance, the requestor, the U.S. Department of Transportation, submits the request for information under the Federal Odometer Law, 49 U.S.C. § 32706(a) (1994). Section 32706 provides that "the Secretary of Transportation may conduct an inspection or investigation necessary to carry out this chapter or regulation prescribed or order issued under this chapter." Further, the Secretary of Transportation is granted the authority to inspect and copy records of any person at reasonable times. *Id.* § 32706(e)(A). Additionally, the requestor states that his office seeks the requested information "pursuant to its authority granted by the Federal odometer law." Therefore, we conclude that the Federal Odometer Law grants the U.S. Department of Transportation a statutory right to access information related to its investigation. Thus, the department must release the submitted information to the requestor.¹ Because the requestor has a special right of access to the requested

¹We note that portions of the submitted information may be confidential with respect to the general public. Therefore, if the department receives an additional request for this information, the department should again seek our decision.

information, we need not address your question regarding inter-governmental transfer. Accordingly, we decline your request to issue a previous determination regarding inter-governmental transfers of confidential information.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



W. Montgomery Meitler
Assistant Attorney General
Open Records Division

WMM/lmt

Ref: ID# 178139

Enc: Submitted documents

c: Mr. Robert Eppes
Special Agent
U.S. Department of Transportation
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Kansas City, Missouri 64106
(w/o enclosures)